



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

October 16, 1992

Mr. Richard D. Monroe
Associate General Counsel
Texas Department of Transportation
125 E. 11th Street
Austin, Texas 78701-2483

OR92-607

Dear Mr. Monroe:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, article 6252-17a, V.T.C.S. Your request was assigned ID# 17221.

The Texas Department of Transportation (the "department") has received a request relating to land that will be "acquired by purchase and condemnation for the Grand Parkway Project." You have submitted representative samples of the documents responsive to the request. You also explain that the request specifically relates to parcels of land currently involved in condemnation proceedings.

You assert that the requested information may be withheld pursuant to section 3(a)(3) of the Open Records Act, which excepts from required public disclosure information relating to pending litigation. We have reviewed the sample documents submitted to us, and we agree that you may withhold the requested documents pursuant to section 3(a)(3). Open Records Decision No. 551 (1990) at 4 (stating documents must relate to pending or anticipated litigation); Open Records Decision No. 311 (1982) (condemnation proceedings constitute litigation for section 3(a)(3) purposes). We caution, however, that if the requested documents become available to the opposing party in the litigation, by discovery or otherwise, they will no longer be within the section 3(a)(3) exception. Open Records Decision No. 349 (1982).

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with

a published open records decision. If you have questions about this ruling, please refer to OR92-607.

Yours very truly,



Celeste A. Baker
Assistant Attorney General
Opinion Committee

CAB/lmm

Ref.: ID# 17221
ID# 17587

Enclosures: Submitted records
Open Records Decision No. 311

cc: Ms. Cynthia K. Young
8165 Richmond, #1226
Houston, Texas 77063